

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

REGINALD WESTON,
Petitioner,

vs.

CASE NO. 02-75135
HON. LAWRENCE P. ZATKOFF

ANDREW JACKSON,
Respondent.

**ORDER DENYING PETITIONER'S MOTIONS FOR A CERTIFICATE OF
APPEALABILITY AND TO PROCEED IN FORMA PAUPERIS ON APPEAL**

On October 31, 2003, this Court dismissed Petitioner's habeas petition because it was filed after the expiration of the statute of limitations, and Petitioner appealed. On August 31, 2004, the Sixth Circuit denied Petitioner a certificate of appealability, and the Supreme Court denied certiorari on December 14, 2004. On March 7, 2006, this Court denied Petitioner's motion for relief from judgment. Petitioner now appeals that decision, and seeks a certificate of appealability ("COA"), and to proceed *in forma pauperis*.

A COA may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When "the district court denies a habeas petition on procedural grounds without reaching the prisoner's underlying constitutional claims[s], a COA should issue [if] the prisoner shows, at least, that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

The Court denied Petitioner's original habeas petition based on the statute of limitations, and denied his motion for relief from judgment (after certiorari was denied by the Supreme Court) because it merely re-raised the same issues. Therefore, reasonable jurists could not conclude that the motion for relief from judgment states a valid claim of the denial of a constitutional right and

that the Court erred in denying it. Accordingly, Petitioner's motion for a certificate of appealability is hereby DENIED.

Petitioner paid the district court filing fee. His appeal may be taken *in forma pauperis* only if it is taken in good faith. 28 U.S.C. § 1915(a)(3). Because Petitioner's habeas claims are time-barred, and have been passed on by the Sixth Circuit and the Supreme Court, his appeal is not taken in good faith. Accordingly, Petitioner's motion to proceed *in forma pauperis* on appeal is hereby DENIED.

IT IS SO ORDERED

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: June 29, 2006

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on June 29, 2006.

s/Marie E. Verlinde
Case Manager
(810) 984-3290